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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,832	12/27/2001	Jack E. Haken	US010712	5495
24737	7590	07/27/2004	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS			WEBB, JAMISUE A	
P.O. BOX 3001			ART UNIT	PAPER NUMBER
BRIARCLIFF MANOR, NY 10510			3629	

DATE MAILED: 07/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/029,832	HAKEN, JACK E.	
	Examiner	Art Unit	
	Jamisue A. Webb	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-13 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 25 March 2002 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>20020226</u> .	6) <input type="checkbox"/> Other: ____.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 1 recites the limitation "the present position" in line 4. There is insufficient antecedent basis for this limitation in the claim.

4. Claim 1 recites the limitation "the ordered items". There is insufficient antecedent basis for this limitation in the claim. Previously in the claim it was recited that the order can either be an item or a service. Therefore if it is a service, it is unclear what the ordered item is referring to.

5. With respect to Claims 1, 3, 5 and 6: the phrases "calculating candidate rendezvous positions" and "recalculating an updated delivery rendezvous position" are indefinite. It is unclear to the examiner what "calculating" is referring to, is this calculating the distance, or the time traveled. Furthermore, a position is a reference point or place, therefore it is unclear how to calculate a position.

6. With respect to Claims 1-4: Claim 1 does not complete the objective of the preamble. The preamble recites a method for delivering items to a customer, yet the all the claim accomplishes is providing a list of delivery positions.

7. With respect to Claims 8-13: These claims recite system/apparatus claims that implement the method of claim 1. A product claim cannot further modify a method step, therefore it is

unclear what these claims are actually trying to claim. The examiner suggests writing out the claims in independent form.

8. With respect to Claims 9 and 12: the phrase “a customer’s wireless data terminal programmed to implement the method in claim...” is indefinite. These Claims (1 and 6) deal with the deliverer side, the supplier side and the customer side of the order, and it is unclear to the examiner how the customer’s terminal can do all three things.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1-3, 5, and 10-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Wood et al. (US 2004/0034571).

11. With respect to Claim 1: Wood et al. (US 2004/0034571) discloses a method for delivering items, which were ordered over the internet by a customer which uses a WAP-enabled mobile phone (see abstract, Figure 1, and Page 1, Paragraph 0011) which comprises the steps of

a. Receiving order data from the wireless terminal (Page 2 paragraph 0017), including information on type and quantity of goods (page 3, paragraph 0031), the present position of the customer (user’s premises, Page 4, paragraph 0054) and one or more positions on the customer’s anticipated route of travel (Page 3, paragraph 0032).

- b. Identifying one or more supply locations (Page 3, paragraphs 0032-0033).
- c. Identifying one or more carriers (page 3, paragraph 0037).
- d. Determining rendezvous criteria for both customer and carrier (Page 3, paragraph 0032).
- e. Calculating possible positions which mean rendezvous criteria (Page 3 paragraph 0032).
- f. Sending proposed positions to the customer's wireless terminal (Page 3 paragraphs 0033-0036).

12. With respect to Claim 2: Wood discloses the order data including desired delivery time (Page 3, paragraph 0035).

13. With respect to Claim 3: Wood discloses the step of calculating delivery routes for each proposed delivery positions (Page 3, paragraph 0040 and Page 4, paragraph 0056).

14. With respect to Claim 5: Wood discloses the customer sending an order for delivery (Page 3, paragraphs 0032-0034, the examiner considers once the order is placed, that gives the authorization from the customer to deliver the items to the rendezvous position, which the examiner considers the address imputed in paragraph 0032).

15. With respect to Claim 11: Wood discloses the use of a server (30).

16. With respect to Claim 12: Wood discloses the use of a customer's wireless data terminal (See Page 2, paragraph 0017 and page 3, paragraph 0038).

17. With respect to Claim 10: Wood discloses transmitting an identity confirming message to the customer's wireless data terminal (Page 2, paragraphs 0019 and 0028).

18. With respect to Claim 13: Wood discloses the use of electrical signals used to transmit information on customer order data (See Page 2, paragraph 0017 and page 3, paragraph 0038).

***Claim Rejections - 35 USC § 103***

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20. Claims 4 and 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al. in view of O'Meara et al. (US 2002/0077876).

21. With respect to Claims 4 and 6: Wood discloses the customer giving a delivery address information and step of calculating includes the delivery address of the customer as well as the GPS location of the carrier (Page 4, paragraph 0044), but fails to disclose calculating the route based on travel constraints, and to update the route of the rendezvous position based on the location of the customer and the carrier. O'Meara discloses a method for allocating or dispatching delivery or repair vehicles (see abstract), which are based on travel constraints such as anticipated traffic during rush hour (Page 2, paragraph 0037), and can change the anticipated time of arrival, or route for the rendezvous position, based on the location of the driver/service person (See page 2, paragraphs 0028 and 0029, and page 3, paragraph 0036-0038). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Wood, to include the ability to factor in travel constraints and to modify

times and routes in order to improve the efficiency of scheduling the allocation of delivery and service vehicles (See O'Meara Page 1).

22. With respect to Claim 7: Wood discloses transmitting the updates position to the carrier's terminal and the customer's terminal (See Page 4, Paragraph 0044).
23. With respect to Claims 8: Wood discloses the use of a server (30).
24. With respect to Claim 9: Wood discloses the use of a customer's wireless data terminal (See Page 2, paragraph 0017 and page 3, paragraph 0038).

### *Conclusion*

25. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Smith et al. (6,430,496) discloses the use of dispatching vehicles based on location, Lindsay (US 2003/0079129) discloses the use of a secure delivery and collection system, Rogers (US 2001/0042024) discloses the use of a system for delivering goods ordered over the internet, Paulo et al. (US 2002/0198790) discloses the use of a method for ordering goods over the internet, The Ride Guide ([www.wmata.com](http://www.wmata.com)) discloses the use of a ride guide that calculates time en route to get from one place to another, dealing with multiple transportation modes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579. The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jamisue Webb

  
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